

## STAFF REPORT

March 5, 2015

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**No. 15UR003 - Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon**

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**ITEM 10**

### GENERAL INFORMATION:

APPLICANT	Kimanh Troung - Impressive Nails
PROPERTY OWNER	Omaha Plaza Investment
REQUEST	<b>No. 15UR003 - Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon</b>
EXISTING LEGAL DESCRIPTION	Lot 2 of Plaza Subdivision, located in Section 35, T2N, R7E, BHM, Rapid City Pennington County, South Dakota
PARCEL ACREAGE	Approximately 3.63 acres
LOCATION	1301 West Omaha Street, Suite 105
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Mixed Use Commercial
SURROUNDING ZONING	
North:	Flood Hazard District
South:	Light Industrial District - General Commercial District
East:	General Commercial District
West:	Light Industrial District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	February 6, 2015
REVIEWED BY	Fletcher Lacock / Nicole Lecy

### RECOMMENDATION:

Staff recommends that the Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon be approved with the following stipulations:

1. The minimum number of required parking spaces shall continue to be provided which is 283 parking spaces. A minimum of seven of the parking spaces shall be handicap accessible. One of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;
2. The minimum required 129.535 landscaping points shall continue to be provided. All provisions of Section 17.50.300, the Landscape Regulations of the Rapid City Municipal Code shall be continually met. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
3. All provisions of the General Commercial District shall be met;

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4. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
5. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Conditional Use Permit. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with the Sign Code shall require a Major Amendment to the Conditional Use Permit. Any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;
6. All applicable provisions of the adopted International Fire Code shall continually be met; and,
7. The Conditional Use Permit shall allow for an on-sale liquor establishment in conjunction with a salon on the property. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the General Commercial District and in compliance with the Parking Ordinance shall require the review and approval of a Building Permit. All conditional uses in the General Commercial District shall require the review and approval of a Major Amendment to the Conditional Use Permit.

#### GENERAL COMMENTS:

The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon. In particular, the applicant is proposing to serve beer and wine to customers of "Impressive Nails" salon. The salon is an existing business located in the Omaha Plaza commercial building.

On June 8, 2006, the Planning Commission approved a Conditional Use Permit (File #06UR013) to allow an on-sale liquor establishment in conjunction with a restaurant for "Panchero's Mexican Grill" which is also located on the property.

The property is located on the southwest corner of the intersection of West Omaha Street, Founders Park Drive and 12<sup>th</sup> Street. Currently, a two-story commercial strip mall is located on the property. The property is also the location of "Panchero's Mexican Grill".

#### STAFF REVIEW:

Staff has reviewed the Conditional Use Permit application with respect to the four criteria for On-sale liquor establishments identified in Chapter 17.50.185 of the Rapid City Municipal Code and has noted the following considerations:

1. *The request will not "adversely affect" the use of any place used for religious worship, school, park, playground, or similar use within (500) foot radius.*

There are no schools, playgrounds, or places of worship located within a 500 foot radius of the subject property. Founders Park is located to the north of the subject property across

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West Omaha Street. Omaha Street is identified as a Principal Arterial Street on the City's Major Street Plan and should provide a buffer to the proposed on-sale use. Haley Park is located approximately five hundred feet to the south of the subject property. The property is located in an established commercial corridor in the City. As the proposed on-sale use is in conjunction with a salon, the request is not anticipated to have any "adverse affect" on any place used for religious worship, school, park or playground.

2. *The requested use is "sufficiently buffered" with respect to residential areas so as not to "adversely affect" such areas.*

There are no residential zoning districts in the area. Staff does not anticipate that the proposed on-sale liquor use will have a significant negative impact on any residences if conducted in conjunction with a salon.

3. *The proposed use will not create an undue concentration of similar uses, so as to cause "blight, deterioration, or substantially diminish or impair property values."*

There are six on-sale liquor establishments located within the area of the subject property. Also located on the subject property is "Panchero's Mexican Grill". Located on the property to the east are "Ichiban" restaurant, "A Perfect 10 Salon", and "Happy Jacks" casino. Located to the north is the Executive Golf Course. Located approximately 315 feet to the east is "The Break Room Billiards and Casino". The property is located along a major commercial corridor in the City. Since the proposed on-sale liquor use is in conjunction with a salon, it does not appear that the concentration of on-sale liquor establishments in the area would cause blight, deterioration or diminish land values of the surrounding properties.

4. *The proposed use has been reviewed under Chapter 17.54.030(E) Criteria for Review.*

Staff has reviewed the proposed use with respect to Chapter 17.54.030(E) and has noted the following issues:

1. *The location, character and natural features of the property:*

The property is located on the south side of West Omaha Street. Currently, a two story commercial structure and a one story fast food restaurant are located on the property. The property is fully developed with structures and parking.

2. *The location, character and design of adjacent buildings:*

To the north of the subject property is Founders Park. "Office Depot" and "Plato's Closet" are located on the property to the west. The property to the east is developed with a gas station and a commercial strip mall. Properties to the south are developed with one story industrial structures.

3. *Proposed fencing, screening and landscaping:*

The property is fully developed. No fencing or screening is required for the proposed

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use. A minimum of 129,535 landscaping points are required. The site plan shows a total of 130,630 landscape points have been provided. The landscape plan is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code.

4. *Proposed vegetation, topography and natural drainage:*

There will be no changes in impervious surfaces, topography or drainage.

5. *Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:*

Vehicular access is off of West Omaha Street and 12<sup>th</sup> Street. Property line sidewalk is located along West Omaha Street and a portion of 12<sup>th</sup> Street providing pedestrian access. "Impressive Nails" is an existing salon located on the property. The proposed on-sale use will operate in conjunction with the salon and will not trigger additional parking. The combined uses on the property require that a minimum of 283 parking spaces be provided. There are currently 333 parking stalls with eight handicapped accessible stalls. The parking is in compliance with the Zoning Ordinance.

6. *Existing traffic and traffic to be generated by the proposed use:*

It appears that the on-sale liquor use in conjunction with a salon will increase traffic minimally.

7. *Proposed signs and lighting:*

The applicant is not proposing any new signage as a part of this application. There is existing wall signage and a monument sign located on the property. The existing signage appears to be in compliance with the Sign Code.

8. *The availability of public utilities and services.*

The property is currently served by public utilities including Rapid City sewer and water.

9. *The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:*

The property is intended to be used for commercial uses. The proposed on-sale liquor establishment is a conditional use in the General Commercial District. The objective of the adopted Comprehensive Plan is to encourage retail establishments and businesses that are convenient to neighborhood residents, yet compatible with but not intrusive upon residential neighborhoods. Additionally, the objective of the adopted Comprehensive Plan is to ensure that there is sufficient separation of conflicting uses. To ensure this objective, the Comprehensive Plan encourages commercial development along major streets and that a sufficient separation and buffering be provided between residential areas. This site meets both of these objectives.

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*10. The overall density, yard, height and other requirements of the zone in which it is located:*

The applicant is not proposing any new construction. The existing commercial structure appears to be in compliance with the area regulations as per Chapter 17.18 of the Rapid City Municipal Code. All provisions of the General Commercial District must be met.

*11. The effects of noise, odor, smoke, dust, air, and water pollution and the degree of control through the use of clarifiers, screening, setbacks and orientation:*

It does not appear that the on-sale use in conjunction with a salon will have a negative effect on the surrounding area by causing noise, odor, smoke, dust, air or water pollution.

*12. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses:*

The property is located along a commercial corridor adjacent to West Omaha Street which is identified as a Principal Arterial Street on the City's Major Street Plan. The stipulations of approval will ensure that the on-sale liquor use will only operate in conjunction with a salon.

Fire Department: The Rapid City Fire Department has indicated that the structure is fire sprinkler protected. All applicable provisions of the adopted International Fire Code must continually be met.

Notification: The mailings and sign have been picked up. In addition, the mailings have been returned to Community Planning and Development Services for posting. Staff has not confirmed that the sign has been posted on the property. Staff will notify the Planning Commission at the March 5, 2015 Planning Commission meeting if this requirement has been met.